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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
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Local Exchange Carriers' Rates, Terms	)	
and Conditions for Expanded	)	CC Docket 94-97
Interconnection Through Virtual	)	Phase II
Collocation for Special Access and	)	
Switched Transport	)	

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MFS COMMUNICATIONS COMPANY, INC. OPPOSITION TO DIRECT CASES

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SUMMARY

In response to the Commission's information requirements in its *Designation Order*, CC Docket. No. 94-97, *Phase II*, most LECs took issue with the Commission's approach to evaluating the reasonableness of LEC virtual collocation rates -- namely, comparing the LEC rate treatment of high capacity special and switched access services, such as DS1 and DS3, with expanded interconnection services. These LECs erroneously assert that the Commission errs in its primary assumption that like methods can or should be applied to recover the costs associated with virtual collocation arrangements. The Commission's method of comparing DS1 and DS3 high capacity access services with those services provided to LEC end-user customer with those provided to interconnectors is appropriate to ensure that LECs are unable to load excessive overhead loadings onto bottleneck facilities that must be purchased by interconnecting competitors.

U S WEST acknowledges in its direct case that it recovers cable installation and support costs from interconnectors and end-user customers of its high capacity special and switched access in disparate ways which enable U S WEST to impose different and more onerous cost burdens on interconnectors than on its preferred customers. As well, Bell Atlantic has recently attempted to manipulate its pricing structure by selectively introducing term discounts but not volume discounts in order to increase expanded interconnection rates. Such LEC activity serves to unjustly enrich the LECs, while discriminating against the LECs' interconnected competitors. To remedy the disparity in this situation, the Commission should require LECs to establish a volume and term discounted rate structure for expanded interconnection.

As well, the Commission must prohibit LEC discrimination in the recovery of nonrecurring charges. Such rampant discrimination is evident from the direct cases of LECs such as U S WEST, who attempts to justify the discriminatory imposition of nonrecurring charges on interconnectors by its discriminatory refusal to tariff volume and term discounted rate plans repeatedly request by CAPs, and Bell Atlantic, who currently enjoys essentially unfettered discretion to determine which costs are direct costs and which costs are common, through its unique and discrepant form of cost recovery.

As demonstrated by its direct case, SWB's rates and rate structure for virtual interconnection are unreasonable, particularly because, throughout the investigation in CC Docket No. 94-97, SWB has refused to make critical cost data publicly available. The Commission should expeditiously conclude its investigation of SWB's IDE rates by finding SWB's tariffed equipment rates for interconnecting competitors to be unreasonable. To this end, the Commission should prescribe an overhead loading factor that is just and reasonable, and, upon receipt of *prima facie* evidence demonstrating that identical equipment can be purchased from a CAP's vendor at lower rates, the Commission should require SWB to refund, with interest, any excess amount paid to date by any CAP for SWB's IDE. Finally, the Commission should ensure that, if CAPs retire IDE after paying the capital cost of the equipment, CAPs should be able to recover either the equipment or its full resale value from SWB.

Finally, the LEC direct cases demonstrate that LEC terms, conditions and practices in the provision of virtual collocation are unreasonable. The Commission should find SWB's practice of requiring receipt of NRC payments before "turning up" service for collocators unreasonable because it causes significant delay in the provisioning of essential services and facilities and increases interconnecting competitors' transaction costs. The Commission also should determine that LEC tariffed training provisions must be clarified in order to prevent price gouging, and that LEC practices of refusing to tariff provisioning and repair intervals are unreasonable.

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MFS COMMUNICATIONS COMPANY, INC.
OPPOSITION TO DIRECT CASES

MFS Communications Company, Inc. ("MFS"), by its undersigned counsel and pursuant to the Commission's *Designation Order*,[1/] hereby respectfully submits its Opposition to the Direct Cases filed by the Local Exchange Carriers ("LECs") in the above-captioned proceeding.

I. INTRODUCTION

As MFS has demonstrated in prior filings in CC Docket Nos. 91-141 and 94-97, the LECs have established excessive rates and unreasonable terms and conditions that they have applied to bottleneck facilities required by interconnectors seeking to compete in the local exchange market. MFS commends the Commission for requiring the LECs to provide detailed clarification of terms, and, in particular, for demanding information regarding the direct cost

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[1/] *Local Exchange Carrier's Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport*, 10 FCC Rcd 1116 (1995) ("*Designation Order*").

components of the virtual collocation rates, as such information is essential to a reliable and comprehensive analysis of the LECs' rates. As MFS discusses below, the LEC direct cases do not support their tariff provisions governing virtual collocation, but instead lend further support to MFS' opposition to the unreasonable and discriminatory practices inherent in these tariffs.

II. THE COMMISSION'S USE OF DIRECT COST COMPARISONS BETWEEN EXPANDED INTERCONNECTION AND HIGH CAPACITY ACCESS SERVICES IS PRACTICAL, RELIABLE AND THEORETICALLY SOUND

The Commission's approach to evaluating the reasonableness of LEC virtual collocation rates is both sound and justifiable -- indeed, comparing the LEC rate treatment of high capacity special and switched access services with expanded interconnection services is the only viable means of judging the reasonableness of the LEC interconnection rates and charges. LEC assertions that it is unreasonable for the Commission to conclude that it may prohibit LECs from applying discriminatory overhead loadings to their virtual collocation services are completely without basis, and must be rejected on both legal and public policy grounds.

The Commission enjoys express legal authority to prohibit discriminatory application of overhead loading factors by the LECs. Section 202(a) of the Communications Act clearly states that "[i]t shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges . . . for or in connection with like services."[2] The Commission has used this authority on numerous occasions to ensure that competitors gain access to bottleneck facilities at reasonable, nondiscriminatory prices.

In evaluating the reasonableness of the LEC virtual interconnection rates, the Commission assumed that interconnection arrangements are the functional equivalents of comparable high capacity DS1 and DS3 access services. In its *Tariff Review Plan Order*, the Commission determined that the LECs' virtual collocation services were comparable to their point-to-point DS1 and DS3 services because "[a]ll these services engage the same basic types of equipment in the LECs' central offices."[3] The Commission found that all of these services required central office entrance cable, an equipment bay containing an optical line terminating multiplexer ("OLTM"), and a cross connect, and that the DS1 and DS3 central office equipment constituted "[a] substantial, if not predominant, share of the total cost for all these services."[4] The Commission discovered that even Southwestern Bell Telephone Company ("SWB") was willing to concede that these DS1 and DS3 services were comparable to virtual collocation services.[5]

Despite the findings by the Commission, in their direct cases filed in response to the Commission's investigation in CC Docket No. 94-97, *Phase II*, certain LECs claim that

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[2] 47 U.S.C. § 202(a).

[3] *Ameritech Operating Companies Revisions to tariff F.C.C. No. 2., et al.*, 10 FCC Rcd. 1960, 1971 (1994) (*"Virtual Collocation Tariff Suspension Order"*).

[4] *Id.*

[5] *Id.*

the Commission's comparison of rate levels and rate structures between the interconnection arrangements provided for competitive access providers ("CAPs",) and the switched/special access services provided for LEC end-user customers is misguided.[6] To this end, these LECs continue to assert that the Commission errs in its primary assumption that like methods can or should be applied to recover the costs associated with virtual collocation arrangements.

Absent the comparative analysis of like services enacted by the Commission, LECs could force captive interconnectors to bear a greater overhead burden than the LECs' preferred customers, thus compelling interconnected competitors essentially to subsidize the LECs' competitive services. LECs then would be able to underprice DS1 and DS3 services in order to enable them to compete successfully for business in certain areas, and to overprice collocation services in order to deny sales to interconnected competitors. The Commission was concerned about the potential danger of such LEC actions when it determined that "LECs

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[6] *Direct Case of BellSouth Telecommunications, Inc.* at 2-3, CC Docket No. 94-97, *Phase II* (Oct. 19, 1995) ("*BellSouth Direct Case*") (asserting that "[t]he questions propounded in Phase II of this undertaking reflect the same misconceptions which distorted the comparative analysis of LEC switched/special access services and terms of collocation in Phase I. . . . The continuing exhortation for LECs to identify and justify all differences amply demonstrates the Common Carrier Bureau's prelidiction to view any variable as presumptively unreasonable and sustainable only through an extraordinary level of proof"); *Direct Case of US WEST* at 2, CC Docket No. 94-97, *Phase II* (Oct. 19, 1995) (*"US WEST Direct Case"*) (stating that "[c]ertain of the comparisons and analogies that the Bureau seeks to make between U S West's DS1/DS3 services and or VEIC service are simply misdirected. . . . Given [these substantive] differences, the Bureau can only go so far in using traditional DS1/DS3 services as some sort of "template"
for VEIC service").

tend to assign low overheads in markets where they face actual or potential competition from interconnectors and assign high overheads where they do not."[7]

The Commission's method of comparing the DS1 and DS3 high capacity access services provided to LEC end-user customers with those provided to interconnecting competitors is appropriate to ensure that LECs are unable to load excessive overhead loading costs onto bottleneck facilities that must be purchased be competitive interconnectors. As a result, LEC claims to the contrary are unjustified and should be rejected.

Because the LECs' high capacity access services such as DS1 and DS3 compete with the services that interconnectors provide, LECs have every incentive to set prices for their DS1 and DS3 services at a low level. Conversely, LECs have every incentive to attach high overhead loading costs to their charges for interconnection services. Such actions by the LECs serve only to frustrate the very purpose behind the Commission's policy of expanded interconnection, which, by definition, enables interconnecting parties "*to compete* on a facilities basis with certain LEC access services."[8] Competition cannot flourish if LECs are able to thwart the very competitive spirit behind the Commission's interconnection *Orders*.

Despite LEC claims to the contrary, collocation arrangements are not unique arrangements. As MFS has conclusively demonstrated in the past, the provision of virtual interconnection services is the functional equivalent of the dedicated, high capacity special and

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[7] *Virtual Collocation Tariff Suspension Order*, 10 FCC Rcd. at 1973.

[8] *Expanded Interconnection with Local Telephone Company Facilities*, 9 FCC Rcd. 5154 ¶ 7 (1994) ("*Virtual Collocation Order*") (emphasis added); *Virtual Collocation Tariff Suspension Order,* 10 FCC Rcd. at 1963 n.7.

switched access services, such as DS1 and DS3. It is obviously in the best interest of the LECs to claim that collocation arrangements are by nature unique, as LECs are looking to make the cost of service a so-called "black box," so as to render it impossible for the Commission to detect LEC activity of price gouging and excessive costing.[9]

The fact remains, however, that the Commission's express mandate in its *Designation Order* was that, because LEC virtual collocation services are not unique, but are in fact comparable to DS1 and DS3 services offered to end-user customers, "[t]o the extent virtual collocation facilities are similar to the comparable service facilities, LECs should use the same unit investment components and annual cost factors for both of these services."[10]

III. THE FCC MUST EXTEND ITS ANALYSIS TO INCLUDE LEC VOLUME AND TERM DISCOUNTED RATE STRUCTURES

Throughout this proceeding and CC Docket No. 91-141, MFS repeatedly has called upon the Commission to require LECs to establish a volume and term discounted rate

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[9] Lastly, SWBT's argument that physical differences in equipment render a comparative analysis impossible is without merit. First, SWBT is unable to demonstrate that a difference in the make or model of equipment has a significant effect on the economics of collocation services. In other words, simply because equipment is physically different does not render this type of comparative analysis unreasonable. Second, even if the Commission believes that the argument of SWBT has merit -- and MFS reiterates that this argument has no merit -- MFS has determined the type of equipment used by SWBT in those COs where MFS has interconnected, or has applied for interconnection, and MFS has gone out of its way to ensure that its equipment is identical to the equipment used by SWBT for its other services. Therefore, the argument raised above by SWBT is inapplicable to MFS' interconnection arrangements.

[10] *Local Exchange Carriers' Rates, Terms and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport*, 10 FCC Rcd 3927, 3930 (1995) ("*Phase I Designation Order*").

structure for expanded interconnection. Statements in U S West's direct case and recent filings by Bell Atlantic further emphasize that such a requirement is essential if LECs are to be prevented from discriminating against interconnected competitors.

U S West responds to Information Requirements 27-30 by acknowledging that it recovers cable installation and cable support costs from interconnectors and end user customers of its high capacity switched and special access services in different ways. It attempts to explain this disparity by stating that: "The difference in cost recovery is correlated to . . . our currently-established terms and conditions associated with the two offerings. * * * For example, VEIC is offered only on a month-to-month basis. Thus, the nonrecurring costs of the offering are prudently recovered in the same time period."[11/] In so stating, U S West admits that its failure to tariff term rate structures -- with their associated discounts -- allows it to impose different and more onerous cost burdens on interconnectors than on its preferred customers. The same argument holds true for its refusal to tariff volume discounted expanded interconnection offerings.

Recent tariff filings by Bell Atlantic acknowledge that it is both possible and appropriate for a LEC to tariff the same rate structures for expanded interconnection that it has established for its high capacity special and switched access service end user customers. In its Transmittal No. 784, Bell Atlantic proposed to introduce a term plan for its expanded interconnection rates, and later proposed to amend its term-discounted rates in Transmittal No. 802. MFS welcomed Bell Atlantic's admission that a term-discounted rate structure for its

[11/] U S West Direct Case at 15 & n.39.

expanded interconnection service was appropriate. MFS nevertheless sought suspension and investigation of the filing, demonstrating that the tariffing of term discounts alone had the perverse effect of *increasing* the rates for many of Bell Atlantic's expanded interconnection service elements, and arguing that Bell Atlantic should not be allowed to selectively introduce term discounts but not volume discounts. Rather than establish a companion volume discounted rate structure for its expanded interconnection service -- which would have provided cost savings for interconnectors similar to the discounts that Bell Atlantic routinely provides to its special and switched access end user customers -- Bell Atlantic withdrew its expanded interconnection term plan.

Bell Atlantic's cynical attempt to manipulate its pricing structure to increase expanded interconnection rates underscores the need for the Commission to require all LECs to tariff volume and term discount plans that are directly comparable to the rate structures they have established for their end user customers. To fail to impose such a requirement would unjustly enrich the LECs -- which benefit from the economies of scale and scope that high volume interconnectors provide -- and would unjustly discriminate against the LECs' interconnected competitors. MFS again urges the Commission to require LEC tariffing of volume and term discounted rate structures for expanded interconnection.

IV. THE COMMISSION SHOULD PROHIBIT DISCRIMINATION IN THE RECOVERY OF NONRECURRING CHARGES

Numerous LECs attempt to justify disparate rate treatment of interconnectors and end user customers that result in higly burdensome up-front payments for interconnected competitors -- charges that preferred special and switched end user customers do not have to pay. These arguments typically contend that nonrecurring costs incurred in providing service to end user customers are recovered, at least in part, through recurring rates, but hold that such a recovery mechanism is not possible or appropriate for interconnectors. In particular, the LECs argue that nonrecurring costs for installation of equipment, cabling, cable support and administration are among the costs that are reflected in recurring end user rates but are imposed as nonrecurring charges on interconnectors.[12/] As noted above, U S West defends the practice with the circular argument that, because it has refused to tariff term plans for interconnectors, it has no choice but to impose the full burden of nonrecurring charges on them.[13/] In effect, U S West is attempting to justify the discriminatory imposition of nonrecurring charges on interconnectors by its discriminatory refusal to tariff volume and term discounted rate plans that MFS and other interconnectors have repeatedly requested.

The disparity in the recovery of nonrecurring charges in LEC rate schemes is inherently discriminatory and establishes an onerous burden on interconnectors -- indeed, the imposition of heavy nonrecurring charges that are not imposed upon end users constitutes a significant barrier to competitive entry. More importantly, the disparate treatment of nonrecurring charges allows LECs to manipulate their costing and pricing practices in a way that is patently anticompetitive. This form of manipulation is evidenced in Bell Atlantic's

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[12/] *E.g.*, GTE Direct Case at 4-5, 9-10; U S West Direct Case at 14, 16; SWB Direct Case at 14; Bell Atlantic Direct Case at 3; Ameritech Direct Case at 5-8; BellSouth Direct Case at 3-4.

[13/] U S West Direct Case at 15.

Direct Case. Bell Atlantic describes its treatment of nonrecurring cabling costs in the following terms:

> Each new collocation arrangement requires the installation of a separate cable dedicated to a single collocator. By contrast, an entrance cable used to provide comparable access services need not be installed for each separate DS1 and DS3 service. Instead, the cables are typically already in place and are used and re-used for a multitude of Bell Atlantic services and customers.[14]

This approach essentially provides Bell Atlantic with unfettered discretion to determine what costs are direct costs -- which, under the incremental pricing practices used by the LECs are recovered directly through the rates for a given service -- and which costs are common -- and are allocated among the entire base of ratepayers according to allocation formulae over which the LECs have complete control.

Bell Atlantic attempts to justify this discrepant form of cost recovery by arguing that costs associated with expanded interconnection are unique, while costs associated with high capacity special access services are not. There is no justification for this assertion, however. Bell Atlantic's assertion that it installs one set of cabling at a time for interconnectors as it receives interconnection requests does not reflect any engineering imperative, but merely Bell Atlantic's own provisioning preferences -- Bell Atlantic could install riser cable and conduit in anticipation of future interconnection demand, just as it does in anticipation of DS1 and DS3 demand. If it did so, Bell Atlantic would have no excuse for refusing to recover the cost of interconnection-related cabling just as it does for DS1 or DS3 cabling.

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[14] Bell Atlantic Direct Case at 3.

Moreover, the implicit argument that DS1 and DS3 services are "commodity" services, while expanded interconnection involves unique appliations is patently in error. Expanded interconnection is simply a high capacity service arrangement. In that regard, it is provisioned exactly in the same way as other LEC high capacity service arrangements, whether multiple DS3, Optical Carrier, or fiber network offerings.[15]

The LEC direct cases provide no legitimate justification for disparate treatment of nonrecurring cost recovery in expanded interconnection and special or switched access rates, and no justification is possible. The costing and pricing approaches taken by the LECs have been designed to inflate both the up-front and recurring rates associated with expanded interconnection, and as such severely disadvantage interconnected competitors. The Commission should require that LECs recover nonrecurring costs from interconnectors in the same way that they recover them from high capacity special and switched service end users. Moreover, the Commission should require a consistent definition of direct and common costs in order to prevent LECs from forcing interconnectors to bear an excessive share of LEC investment-related costs.

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[15] Most LECs have tariffed arrangements for packages of 6, 12 or 24 DS3s, and SONET-based services in capacities ranging from OC-3 to OC-48. In addition, many LECs provide separately tariffed dedicated fiber ring network services. These arrangements require dedicated cabling and case-by-case engineering that is identical to -- and that may be more extensive than -- that provided to expanded interconnection arrangements.

V. THE LEC DIRECT CASES DEMONSTATE THAT THEIR VIRTUAL INTERCONNECTION RATES ARE UNREASONABLE

A. SWB's IDE Rates and Rate Structure Are Unreasonable

1. The Commission should enforce its existing rules and determine that any IDE charges above what CAPs would pay to their own vendors Are excessive.[16]

From the inception of the investigation in CC Docket No. 94-97, SWB has refused to make critical cost material public. The reality of the situation is that SWB has gamed the regulatory process in a so-far successful attempt to prevent its interconnecting customers from essential information -- namely, the cost of the equipment that they are paying SWB for. SWB has successfully kept its cost data bottled up in legal proceedings before the Commission for the past *eleven months*, during which time MFS' ability to perform any sort of cost study of SWB's equipment rates has been completely thwarted.

SWB equipment rates for collocating competitors represent the worst kind of extortionary tactics. At present, if MFS desires to provide virtual collocation services to its customers, MFS has no choice but to submit to SWB's existing prices for IDE, being unable to demonstrate whether these prices are reasonable or are flagrant price gouging. At the same time, SWB has been able to reap the benefits of pocketing all of the profits resulting from its unreasonably excessive rates, which MFS has documented to be 200% or more in excess of

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[16] While MFS agrees with the assertions of U S WEST that its agreement to obtain interconnector equipment for the nominal sum of $1.00 obviates the need for Commission scrutiny on this point, MFS nevertheless takes issue with U S WEST's assertion that its policies have not harmed any parties. U S WEST's process of changing its mind and effecting the necessary tariff revisions forced MFS to delay its collocation plans for several U S WEST central offices for months.

the list price for equipment that MFS can obtain from its own vendors.[17] Because SWB has been successful in preventing the release of its cost data, MFS has been forced to pay SWB's grossly excessive IDE rates for an entire calendar year.[18]

The Commission must act expeditiously to resolve this intolerable situation, once and for all. To this end, MFS urges the Commission expeditiously to enforce the rules governing the pricing of IDE that it established in the *Virtual Collocation Order*. Specifically, the Commission should conclude its investigation of SWB's IDE rates by expressly finding SWB's tariffed equipment rates for interconnecting competitors to be unreasonable. The Commission should confirm that, to the extent that collocators can demonstrate that they are able to purchase identical equipment from their own vendors at rates lower than those in SWB's tariff, such a demonstration will amount to *prima facie* evidence of the unreasonableness of SWB's equipment rates, and SWB will be required to refund, with interest, any excess amount paid by any CAP for SWB's IDE.

As part of this process, and consistent with the Commission's finding in the *Virtual Collocation Order,* the Commission should prescribe an overhead loading factor that is

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[17] *See MFS Communications Company, Inc. Petition for Partial Rejection or Suspension and Investigation, and for Prescription of Tariffed Rates, Terms and Conditions,* CC Docket. No. 91-141, *Phase I* at 18 and Appendix C (Oct. 14, 1994).

[18] The Commission itself has acknowledged the potential for abuse raised by SWB's attempt to classify cost data as proprietary. To this end, the Commission has denied a recent SWB tariff filing requesting confidential treatment of cost support information submitted with Transmittal No. 2489. The Commission also has suspended another tariff filing that seeks proprietary treatment of relevant cost support data-- Transmittal No. 2470 -- and has designated the sufficiency of SWB's cost support data for public comment. *Southwestern Bell Tel. Co. Tariff F.C.C. No. 73, Transmittal Nos. 2470, 2489*, DA 95-2156, CC Docket No. 95-158 (released Oct. 13, 1995).

just and reasonable for SWB's IDE rates.[19] The measure of a reasonable IDE rate would then be the cost of the IDE that the CAP could obtain from its own vendor, marked up by the overhead loading factor prescribed by the Commission. SWB would be required to refund, with interest, any charges paid by an interconnector in areas of this amount. This approach would represent an acceptable compromise between SWB's desire to keep proprietary its rates from its equipment vendors, and the CAPs' obvious need to obtain IDE at reasonable rates.

2. **In the alternative, the Commission should continue its investigation, and follow the decision of the TEXAS Public Utility Commission permitting SWB to charge recurring rates for IDE, based on IDE-specific vendor costs filed with the Commission.**

If the Commission chooses to refrain from prescribing reasonable SWB IDE rates as discussed in the preceeding section, as an alternative, the Commission should adopt the pricing arrangement approved by the TEXAS Public Utility Commission. In a recent proceeding, the TXPUC resolved CAP complaints against SWB's intrastate collocation tariff in Texas, which in most respects is identical to its federal expanded interconnection tariff. The TXPUC adopted a Joint Stipulation by SWB and the complaining CAPs which required SWB to recast its nonrecurring IDE charge as a recurring rate. SWB did so by amortizing the IDE capital cost over a four year period, discounted at an 8% interest rate.

This method, if adopted by the Commission, essentially would take SWB's one-time IDE charge and recast it into a monthly recurring rate, while ensuring full cost recovery to SWB. This proposal would free CAPs, at least temporarily, from paying extortionary rates to SWB as lump-sum nonrecurring charges, which act as barriers to competitive entry. At the

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[19] *Virtual Collocation Order*, 9 FCC Rcd. at 5189.

same time, this plan would enable the Commission to continue with its investigation into SWB's equipment rates, until such time as the CAPs are able to access adequate cost data of SWB, and can comment publicly on the reasonableness of such rates.

Finally, the Commission also should ensure that, if CAPs retire the IDE after paying the capital cost of the equipment, CAPs should be able to recover either the equipment or its full resale value from SWB. Under SWB's currently effective tariff, although an interconnector pays the full capital cost of IDE, it may not recover the equipment if it terminates the interconnection arrangement. This provision is patently unreasonable, and unjustly enriches SWB.

Nor is this issue purely academic. MFS has already experienced several instances in which the equipment it placed in interconnection arrangements was exhausted and had to be replaced with higher capacity equipment. Moreover, as MFS expands its network to incorporate SONET equipment. With every other LEC in the country, MFS is able to reclaim this equipment and deploy it elsewhere in its network, or sell it to other users. In either case, MFS realizes considerable value from this equipment.

Under the SWB tariff, MFS and other interconnectors are denied this significant value and SWB is unjustly enriched by it. The Commisison should require SWB to reimburse interconnectors for the full resale value of any interconnected IDE that they retire.

B. SWB's Attempt to Impose Separate Alarm Collection Device Charges On Collocators Is Unreasonable

SWB responds to Information Requirement No. 37 by asserting that it does not include the cost of repeaters in its cross-connection service rates. This response is incomplete, however, in that the Commission requested information regarding repeaters "or other equipment associated with cross-connection service." In fact, SWB is now attempting to impose a wholly unreasonable cost on interconnectors by attempting to force them to pay for Alarm Collection Devices ("ACDs").

SWB first introduced its ACD service in March in its Transmittal No. 2440, providing for a dedicated ACD to provide for enhanced traffic monitoring and control for interconnectors. Subsequently, SWB filed Transmittal No. 2499, in which it proposed to establish an ACD Access Link. SWB asserts that, in order to perform necessary monitoring and control functions, each interconnector must purchase an ACD, either by purchasing a separate, dedicated ACD for each expanded interconnection arrangement, or by using ACD Link service to link an interconnector's multiple expanded interconnection arrangements in different central offices to a single ACD that would be dedicated to that interconnected customer's use.

MFS did not oppose Transmittal No. 2440 because MFS assumed that ACD was an optional service. Indeed, nothing in the tariffed terms and conditions associated with the service indicates that it must be purchased by interconnectors. In subsequent contacts with SWB personnel, however, SWB informed MFS that ACD is a mandatory service that must be purchased in conjunction with its Virtual Collocation service, and would not process MFS' requests for expanded interconnection unless MFS agreed to pay for the ACD element. The Commission suspended Transmittal No. 2440 for one day and allowed it to take effect, but incorporated the filing in the instant proceeding. MFS filed a petition to reject Transmittal No. 2499, which remains pending before the Commission.

SWB's ACD and ACD Link elements are wholly unnecessary, and unreasonably inflate the cost of expanded interconnection. First, there is no technical reason to require interconnectors to purchase an ACD. In its expanded interconnection with SWB, MFS deploys Fujitsu terminating equipment, which is the same equipment that SWB uses in its own offices. An integral function of this Fujitsu equipment is the provision of a Data Control Channel ("DCC"). When activated, the DCC provides full monitoring and control capabilities, and communicates monitoring and control data between the MFS and SWB equipment. As a result, the ACD facilities that SWB has forced MFS to purchase are duplicative and serve no legitimate technical function. This conclusion is supported by the fact that *no other LEC in the country* -- under either virtual or physical collocation -- has tariffed a similar rate element or has required interconnectors to purchase similar ACD equipment.[20]

Moreover, even if an ACD is required for SWB interconnection arrangements -- and the foregoing discussion makes clear that it is not -- SWB has failed to demonstrate that a *dedicated* ACD is required. As SWB interprets its currently effective ACD provisions, each

[20] Indeed, it is significant that SWB neglected to provide such a rate element in its initial virtual collocation (or previously, in its physical collocation) tariff filing. If such equipment is, as SWB asserts, necessary to provide a functionality critical to interconnection, it is inconceivable that SWB would have failed to include it in its original tariff filings.

interconnector is required to purchase a separate, dedicated ACD for every interconnection arrangement that it maintains. This requirement is grossly inefficient and imposes duplicative and excessive costs on interconnectors. SWB's proposed ACD Link is similarly flawed. While the Link would allow an interconnector with expanded interconnection arrangements in different central offices to share an ACD, it still requires that the ACD be dedicated to the use of a single interconnector. There is no technical justification for this requirement. Rather, if an ACD is required -- and MFS maintains that it is not -- a single ACD has adequate capacity to serve all interconnectors in a given service area. Therefore there is no reasonable justification for SWB's "one ACD per customer" requirement.

These arguments are supported in the direct case of GTE. In discussing the development of its direct investment in interconnector-designated equipment, GTE states that:

> The second component is an allocation of labor and investment of the alarm eqiupment that is used to connect the customer's terminal to GTE's alarm network. The alarm function is an essential element of any maintenance program. Since each base module is provided a port into the alarm network, it is reasonable and appropriate to allocate that cost to this rate element.[21/]

In so stating, GTE notes that it maintains an alarm network that provides monitor and control capabilities to its entire range of services, and allocates only the cost of a port to that network to the interconnector. The GTE filing therefore provides further evidence that SWB's attempt to force interconnectors to purchase dedicated ACDs serves no purpose other than to grossly inflate the cost of interconnection.

[21/] GTE Direct Case at 7.

SWB has failed to justify this unnecessary add-on to its collocation service. Because the ACD or ACD Link service is unnecessary and has not been included in the collocation tariffs of any other LEC, the Commission should order SWB to remove this rate element from its tariff, and to provide full refunds, with interest, for any ACD-related charges paid by interconnectors.

C. Bell Atlantic's Cost of Money Factor Is Excessive

Bell Atlantic identifies the cost of money factors used in establishing its interconnection rates as ranging from .0801 to .13.[22/] In its recent direct case filed in support of its proposed Video Dialtone Service -- a competitive service for which Bell Atlantic has an incentive to minimize service rates -- Bell Atlantic identifies cost of money factors that range from .0794 to .1042.[23/] In light of Bell Atlantic's incentive to overstate the cost of bottleneck services sold to its competitors, the Commission should diallow the use of any cost of money factor in excess of the factors used for comparable investment in the Video Dialtone filing.

D. Bell Atlantic's Discriminatory Application of Installation Charges Is Patently Violative of the Commission's Rules

Bell Atlantic's currently effective expanded interconnection tariff contains nonrecurring charges that are patently discriminatory and directly violative of the Commission's rules. Specifically, Bell Atlantic imposes nonrecurring charges for the

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[22/] Bell Atlantic Direct Case, Exhibit 2, p. 1.

[23/] Amendment to The Bell Atlantic Telephone Companies Tariff FCC No. 10, Transmittal No.s 741, 786 Amended; Bell Atlantic Direct Case, Attachment Pre(1), at Workpaper 5-2, Workpaper 5-12, & Annual Cost Factors (page not numbered) (filed October 26, 1995).